

INTERNAL USE ONLY

21 May 1970

MEMORANDUM FOR THE RECORD

SUBJECT: Comparison Between S. 782 and Agency Revision  
of Senator Ervin's Proposals

1. Background. In lieu of granting the Agency a full exemption, Senator Ervin proposed a series of specific amendments to S. 782 (over and above the partial exemption granted the Agency in the 90th Congress in connection with polygraph and psychological testing and financial statements) to meet the Agency's remaining objections as he saw them. Ervin's proposals and our revisions are set forth in the attached analysis.

2. Senate Outcome. S. 782, as amended, passed the Senate on 15 May with the following outcome on Senator Ervin's proposals and the Agency's revision (reference to bill section):

-- Accepted Agency's (reference to the Agency or the Director includes NSA) position permitting inquiry concerning citizenship of employee or applicant or his forebearers in certain cases (section 1(a)).

-- Accepted Agency's position that counsel in investigations for misconduct or disciplinary action either be approved by the Agency or be an Agency employee (section 1(k)).

-- Rejected Agency's position to exempt from the proscriptions of the bill any interrogation or examination of employees or applicants by CIA (section 6). Also rejected Agency's position that the exemption granted for testing and financial statements take effect upon general finding rather than a class of findings by grade or category of duties. As a result, Ervin reverted to the original language requiring a personal finding with regard to each individual case (section 6).

INTERNAL USE ONLY

INTERNAL USE ONLY

-- Accepted Agency's position requiring 120 days' notice to Agency to permit Agency action before employee may proceed to the district court or the "Board," but rejected the contention that this procedure should be required of applicants as well (section 7). Also rejected Agency's position authorizing extension of the 120 days upon a finding of necessity by the Director (section 7). Accepted Agency position, with specific language, that the bill does not affect the existing statutory authority of the Director for terminating employment (section 7).

-- Accepted Agency's position, with specific language, that Act does not affect the authority of the Director to protect or withhold information pursuant to statute or executive order and that the Director's finding with respect thereto is conclusive so that such information is inadmissible in proceedings under the Act (section 8).



Assistant Legislative Counsel

STAT

Distribution:

Orig - Subj  
1 - Chrn

OLC/LLM:smg (21 May 70)

INTERNAL USE ONLY

Calendar No. 876

91ST CONGRESS  
2D SESSION

**S. 782**

[Report No. 91-873]

---

## A BILL

To protect the civilian employees of the executive branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy.

---

By Mr. ERVIN, Mr. BAYH, Mr. BIRLE, Mr. BROOKE, Mr. BURDICK, Mr. BYRD of Virginia, Mr. CHURCH, Mr. COOK, Mr. COOPER, Mr. DODD, Mr. DOLE, Mr. DOMINICK, Mr. EAGLETON, Mr. FANNIN, Mr. FONG, Mr. GOLDWATER, Mr. GRAVEL, Mr. GURNEY, Mr. HANSEN, Mr. HARTKE, Mr. HATFIELD, Mr. HEUSKA, Mr. INOUE, Mr. JORDAN of North Carolina, Mr. JORDAN of Idaho, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MAGNUSON, Mr. MATHIAS, Mr. METCALF, Mr. MILLER, Mr. MONTOYA, Mr. MUNDT, Mr. MURPHY, Mr. MUSKIE, Mr. NELSON, Mr. PEARSON, Mr. PERCY, Mr. PROUTY, Mr. PROXMIER, Mr. RANDOLPH, Mr. SAXBE, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPARKMAN, Mr. SPONG, Mr. STEVENS, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, and Mr. YARBOROUGH

---

JANUARY 31, 1969

Read twice and referred to the Committee on the  
Judiciary

MAY 15, 1970

Reported with amendments